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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE:



Office: BALTIMORE

Date:

FEB 18 2005

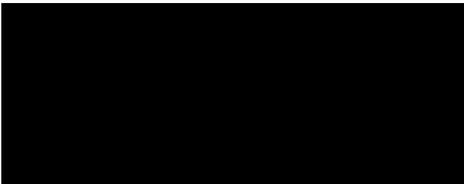
IN RE:

Applicant:



APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Handwritten signature of Robert P. Wiemann.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant entered the United States in 1981 as a non-immigrant and was inspected by immigration officials at a New York City airport. Counsel contends the fact that applicant's "authorized period of admission as a nonimmigrant expired before January 1, 1982, through the passage of time...was known to the government..."

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Although CIS regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an effort to establish continuous residence from before January 1, 1982 through May 4, 1988, the applicant submitted affidavits from [REDACTED] who indicated they met the applicant in Florida in 1984 and 1988 respectively.

The district director determined that the documentation submitted with the applicant's LIFE application was insufficient to establish entry prior to January 1, 1982 and of continuous residence through May 4, 1988. On December 23, 2002, the director issued a Notice of Intent to Deny, which provided the applicant the opportunity to submit additional documentation to overcome the director's findings. Counsel, in response submitted documentation issued during 1995 and 1996. Counsel asserted that the applicant was unable to submit evidence of his unlawful continuous residence "because he was only a 9 year old child when he first came to the United States with his parents in 1981." Counsel claimed that the applicant's entry into the United States was noted on his parents' passports.

Counsel, however, provides no evidence to support his argument. Counsel's assertion does not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel provided a statement from the applicant who claimed that in 1981, his parents left him with his uncle in [REDACTED]. The applicant further claimed that in 1989, at the age of 17, he moved out of his uncle's home and resided with friends.

The applicant, however, provides no evidence such as school records, medical records or a statement from his uncle to corroborate his claim. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

It is concluded that the applicant has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.